



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

T.A.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/551,198	10/31/95	HERZ	F 6099/002

LM01/0224

JAMES M GRAZIANO
DUFT GRAZIANO & FOREST
1790 - 30TH STREET
SUITE 140
BOULDER CO 80301-1018

EXAMINER

HUYNH, B

ART UNIT

PAPER NUMBER

2773

16

DATE MAILED: 02/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/551,198

Applicant(s)
Herz et al.

Examiner
Huynh-Ba

Group Art Unit
2773



☒ Responsive to communication(s) filed on Jan 8, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-34 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

2/23/99

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2773

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 1/8/99 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/551,198 is acceptable and a CPA has been established. An action on the CPA follows.

Double Patenting

2. Claims 1-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 5,754,939. The ground of rejection continues to be as set forth in paragraph 2 of the prior Office

Claim Rejections - 35 USC § 103

3. Claims 1-11, 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #5,717,923 (Dedrick). Claims 12-17, 29-34 are rejected under 35 U.S.C. § 103 as being unpatentable over Dedrick as applied to claims 1 and 18 above, and further in view of Cutting et al (Scatter/Gather: A Cluster-based Approach to Browsing Large Document Collections).

The grounds of rejections continue to be as set forth in paragraphs 3 and 4 of the prior Office action.

Art Unit: 2773

Conclusion

4. This is a CPA of applicant's earlier Application No. 08/551,198. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Inquires

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 308-9051 may be used for formal communications or (703) 308-6606 for informal or draft communications. NOTE: A Request for Continuation (Rule 60 or 62) cannot be faxed.

Art Unit: 2773

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huynh-Ba whose telephone number is (703) 305-9794. The examiner can normally be reached on Monday-Friday from 8.00AM to 4.30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim, can be reached on (703) 305-3821.

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Huynh-Ba
Primary Examiner
Art Unit 2773
2/23/99

A handwritten signature in black ink, appearing to read 'Huynh-Ba', is written over a horizontal line. The signature is stylized and cursive.